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October 1, 1997

VIA HAND DELIVERY

William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Ex Parte Presentation: Implementation of the Pay Telephone  
Reclassification and Compensation Provisions of the  
Telecommunications Act of 1996 (CC Docket No. 96-128)

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(1) of the Commission's rules and on behalf of PageMart Wireless, Inc., enclosed are two copies of a letter which was hand delivered to Richard Metzger today in regard to the above-referenced proceeding.

Kindly contact the undersigned should you or your staff have any questions in regard to the enclosed materials.

Respectfully submitted,

Phillip L. Spector  
Monica A. Leimone  
Attorneys for PageMart Wireless, Inc.

Enclosures

cc: Richard Metzger

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**Via Hand Delivery**

Mr. Richard Metzger  
Acting Bureau Chief  
Common Carrier Bureau  
Federal Communications Commission  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996  
(CC Docket No. 96-128)**

Dear Mr. Metzger:

PageMart Wireless, Inc. ("PageMart"), by its attorneys, hereby urges the Commission to reopen the record in the above-captioned proceeding.

PageMart participated in the proceedings on reconsideration of the Commission's original payphone order,<sup>1/</sup> and, following the Commission's decision on

<sup>1/</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, 11 FCC Rcd. 20451 (1996). As a reseller of interexchange services, PageMart is directly affected by the authorization that the Commission's order gave to interexchange carriers to pass on to their customers, including paging providers, the costs incurred for compensating payphone service providers for 800/888 number calls.

reconsideration,<sup>2/</sup> joined other parties in filing a petition for review of the Payphone Orders with the U.S. Court of Appeals for the District of Columbia Circuit. The Court of Appeals, in Illinois Public Telecommunications Ass'n v. FCC,<sup>3/</sup> remanded significant portions of the Payphone Orders to the Commission.

PageMart also responded to the Commission's Public Notice soliciting comment on the remand proceedings.<sup>4/</sup> Subsequent to the comment period, the Court of Appeals issued an order clarifying that it intended to vacate the interim provisions in the Payphone Orders.<sup>5/</sup> In light of this clarifying order, it is appropriate for the Commission to solicit an additional round of comments, in order to have a fully-developed record before it issues a revised payphone compensation scheme.

Because the issues at stake in this proceeding are necessarily complex and involve tens of millions of dollars, they demand well-developed and comprehensive consideration. A hasty and ill-considered scheme would not serve the interests of any of the parties involved, including the consumers of payphone services and the consumers of paging services. As the Court of Appeals made clear in its clarifying order, a revised payphone compensation scheme requires a thorough reconsideration of the underpinnings of the system, rather than a mere justification of the existing provisions.

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<sup>2/</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order on Reconsideration, 11 FCC Rcd. 21233 (1996) (collectively, with the original order, the "Payphone Orders").

<sup>3/</sup> 117 F.3d 555 (D.C. Cir. 1997).

<sup>4/</sup> Pleading Cycle Established for Comment on Remand Issues in the Payphone Proceeding (CC Docket No. 96-128), DA 97-1673 (August 5, 1997).

<sup>5/</sup> Illinois Public Telecommunications Ass'n v. FCC, On Motion for Clarification or, Alternatively, for Partial Rehearing, Docket No. 96-1394 et al. (September 16, 1997).

PAUL, WEISS, RIFKIND, WHARTON & GARRISON

Mr. Richard Metzger

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In light of the above, PageMart respectfully requests that the record be reopened in the above-captioned proceeding so that the Commission may be assisted in developing an appropriate and rational scheme for payphone compensation.

Respectfully submitted,

*Phillip L. Spector / ms*

Phillip L. Spector  
Monica A. Leimone

cc: Hon. Reed E. Hundt  
Hon. James H. Quello  
Hon. Rachelle B. Chong  
Hon. Susan Ness